JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

FEB 15 2007

FILED
CLERK'S OFFICE

RELEASED FOR PUBLICATION

DOCKET NO. 1791

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS LITIGATION

United States of America v. Anthony J. Palermino, et al., D. Connecticut, C.A. No. 3:06-1405
United States of America v. Kurt Adams, et al., D. Maine, C.A. No. 1:06-97
United States of America v. Steve Gaw, et al., E.D. Missouri, C.A. No. 4:06-1132
Robert Clayton, et al. v. AT&T Communications of the Southwest, Inc., et al., W.D. Missouri, C.A. No. 2:06-4177
United States of America v. Zulima V. Farber, et al., D. New Jersey, C.A. No. 3:06-2683
United States of America v. James Volz, et al., D. Vermont, C.A. No. 2:06-188

BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN,* J. FREDERICK MOTZ,* ROBERT L. MILLER, JR.,* KATHRYN H. VRATIL, DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL*

TRANSFER ORDER

Before the Panel are motions brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in an action pending in the Western District of Missouri and defendants and proposed defendant intervenors in actions pending in the District of Connecticut, the District of Maine, the Eastern District of Missouri, the District of New Jersey, and the District of Vermont, respectively, to vacate the portions of Panel orders conditionally transferring the actions to the Northern District of California for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket. Plaintiffs in the initially centralized actions in this docket also oppose transfer. The Missouri state official plaintiffs in the Western District of Missouri action, who are also defendants in the Eastern District of Missouri action, separately move, in the alternative, for creation of a separate docket consisting of the six actions in the Western District of Missouri. The United States, plaintiff in all but the Western District of Missouri action, and responding telecommunication company defendants oppose the motions to vacate. No responding party supports the Missouri parties' motion for creation of a separate docket.

---

* Judge Hodges was unable to attend the oral argument, but participated in the disposition of this matter based upon the papers filed and a transcript of the oral argument. Judge Jensen took no part in the disposition of this matter. Judge Motz took no part in the disposition of this matter with respect to all but the District of Maine action. Judge Miller took no part in the disposition of this matter with respect to the District of New Jersey action.

On the basis of the papers filed and hearing session held, the Panel finds that these six actions involve common questions of fact with the actions in this litigation previously centralized in the Northern District of California, and that transfer of the six actions to the Northern District of California for inclusion in the coordinated or consolidated pretrial proceedings in that district will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Transfer of these actions is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. In that order, the Panel held that the Northern District of California was a proper Section 1407 forum for actions sharing factual and legal questions regarding alleged Government surveillance of telecommunications activity and the participation in (or cooperation with) that surveillance by individual telecommunications companies. The Panel stated that centralization under Section 1407 was necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (particularly with respect to matters involving national security), and conserve the resources of the parties, their counsel and the judiciary. *See In re National Security Agency Telecommunications Records Litigation*, 444 F.Supp.2d 1332, 1334 (J.P.M.L. 2006). Like the actions already centralized in this docket, the six actions currently before the Panel arise from the Government's alleged telecommunications surveillance program, and necessarily implicate common and delicate questions of national security.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these six actions are transferred to the Northern District of California and, with the consent of that court, assigned to the Honorable Vaughn R. Walker for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:

[signature]

Wm. Terrell Hodges
Chairman